

IN THE CLAIMS:

2 Please add the following new claim

26. An orally compatible composition comprising:
- a desensitizing agent for reducing dental pain sensations,
- a tackifying agent selected from the group consisting of carboxypolymethylene, gums, proteins, and mixtures thereof, the dental composition having a stickiness so that the dental composition is capable of adhering and retaining a dental tray over a person's teeth for at least about one hour, wherein the dental tray is designed not to exert a mechanical pressure onto the person's teeth and gums, and
- a bleaching compound.

REMARKS

In the office action dated November 3, 2000 the Examiner has indicated that the claimed invention of the present application claims the same invention as set forth in U.S. Patent No. 5,851,512 ("the Fischer I patent"); U.S. Patent No. 5,855,870 ("the Fischer II patent"); U.S. Patent No. 5,985,249 ("the Fischer III patent") and U.S. Patent No. 6,036,942, ("the Fischer IV patent").

In order to initiate an interference with the above patents, claim 21 of the 5,851,512 patent has been copied herein. Specifically claim 26 added to the present application herein corresponds to claim 21 of the 5,851,512. A request for interference under 37 C.F.R. §1.607 has been filed concurrently herewith together with two supporting affidavits. Only facsimile

copies of the executed affidavits were available at the time of filing. Accordingly “clean” copies of the unexecuted affidavits have also been provided herewith to assist the Examiner when reading the executed affidavits.

As discussed in detail in the request for interference the subject matter of claim 26 is supported by the specification of the application. However with regard to the limitation in claim 26 that “the dental composition having a stickiness so that the dental composition is capable of adhering and retaining a dental tray over a person’s teeth for at least about one hour, wherein the dental tray is designed not to exert a mechanical pressure onto the person’s teeth and gums” it is noted that in the specification of the Fischer I patent a suitable sticky matrix material is identified as carboxypolymethylene. It is further noted in the Fischer I patent that suitable carboxypolymethylene may be obtained from B.F. Goodrich Company under the tradename “Carbopol”. (See Fischer I patent, col. 6, ll. 29-39) Finally the Fischer I patent states that the composition of the invention disclosed in the Fischer I patent preferably has a concentration of Carbopol in a range from about 2% to about 12% by weight. (See Fischer I patent, col. 6, l. 60)

In the present application it is recited that the dental composition may contain carboxypolymethylene in an amount up to about 12%. (See p. 6, ll. 26-27). Accordingly the “tackifying agent” of the type recited in claim 1 of the Fischer I patent and in claim 26 herein is supported by the specification of the present application. The other elements of claim 26, i.e. the bleaching agent and the desensitizing agent are clearly supported by the specification of the

present application.

In view of the above it is requested that an interference be declared between the present application and U.S. Patent No. 5,851,512 (“the Fischer I patent”); U.S. Patent No. 5,855,870 (“the Fischer II patent”); U.S. Patent No. 5,985,249 (“the Fischer III patent”) and U.S. Patent No. 6,036,942, (“the Fischer IV patent”).


In light of the fact that Fischer references will not be available as prior art once an interference is declared it is submitted that the Examiner’s rejections under 35 U.S.C. §103 have been rendered moot.

A petition for a three-month extension of time is being filed herewith together with the requisite fee. If it is determined that any other fee is required, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 50-0518 in the name of Steinberg & Raskin, P.C.

According to currently recommended Patent Office policy, the Examiner is specifically authorized to contact the undersigned in the event that a telephonic interview would advance the prosecution of this application.

Respectfully submitted,

STEINBERG & RASKIN, P.C.

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